

## **REMARKS**

### **Interview Summary**

On September 4, 2009, a telephonic interview was conducted between Examiner Theriault and Marc S. Hanish, Reg. No. 42,626 and Michael Ferrazano, Reg. No. 44,105. The Examiner is kindly thanked for granting this interview. During the interview, a proposed amendment was discussed. The Examiner felt the proposed amendment did not do enough to distinguish the claimed invention from the prior art. The Examiner made several suggestions as to various aspects that would aid in distinguishing the claimed invention. These suggestions have been incorporated into the present amendment. Specifically, amendments have been made to focus one or more of the claims on the fact that the user is not able to view the menu (either due to lack of a display or due to some other factor), customization of audible outputs based upon media item type, customization of audible outputs based upon language, and the playing of media file and the output of audible menu items simultaneously, for example. It is respectfully maintained that these amendments distinguish the claimed invention from the prior art.

### **Substantive Remarks**

Claims 20, 22, 33, 26-39, and 42-48 are rejected under 35 U.S.C. 103(a) as being anticipated by Csicsatka et al (U.S. 2003/0158737) in view of Forest et al. (U.S. 5,999,895).

Claims 21, 26-27, and 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Csicsatka et al (U.S. 2003/0158737) in view of Forest et al. (U.S. 5,999,895) and further in view of Miller et al. (U.S. 2002/0046315).

Claims 30-32, 40 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Csicsatka et al (U.S. 2003/0158737) in view of Forest et al. (U.S. 5,999,895) in further in view of Miller et al. (U.S. 2002/0046315), in further view of Swanson et al. (U.S. 2002/0013784).

Claims 20-48 have been cancelled. New claims 49-72 have been added. Applicant will discuss various elements of the new claims and how they are distinguishable from the previously cited prior art. Applicant notes that many of these features were discussed with the Examiner during the interview.

Independent claim 49 describes an embodiment where customization features are received by a user. The customization features indicate a type of media item to navigate. For example, the user can specify that he wishes to navigate video files or song files. Then the

system provides a navigable menu with navigation icons. When user input is received indicating movement to a particular navigation icon, an audible output corresponding to the particular navigation menu icon is played. This audible output is customized based on the customization settings. For example, the audible output for a particular navigation menu icon is different based upon whether the user had selected that song files be navigated versus if the user had selected that video files be navigated. As a specific example, if the GUI senses movement to a navigation icon representing a right arrow, the audible output may be “next track” if the user had selected that song files be navigated, while the audible output may be “next chapter” if the user had selected that video files be navigated. This is quite different than the prior art, where there is only a single audio tag associated with a selected icon, and not multiple potential audio tags associated with a single icon, let alone based upon a customization setting as to the type of media items to navigate.

Independent claim 49 then also describes receiving user input indicating selection of the particular navigation menu icon and executing a specific navigation corresponding to the particular navigation menu icon in response to the receiving of the user input indicating selection of the particular navigation menu icon, wherein the specific navigation command does not include playing a media item. This distinguishes between the user input indicating movement to a particular navigation menu icon and the user input indicating the selection of the particular navigation menu icon. The prior art does not distinguish between the two, only playing an audio file upon selection.

Independent claim 49 then also describes that the specific navigation command does not include playing a media item. In other words, the command that is being selected is not a “play media item”-type command. Rather, it is a menu navigation command, such as drilling up or down in a hierarchy of menus. This means that there is not a 1-1 correspondence between an audible output and a particular media item. This is in contrast to the cited prior art, which teaches that the audio tag is associated with a particular media item. In fact, the Csicsatka reference even requires that the audio tags be embedded in the song files and not treated as separate audio files (see [0053], “an audio tag file associated with a particular audio data file can be altered to prevent inadvertent recognition of the audio tag file as a stand-alone audio data file, and then embedded into the information segment of the audio data file.”). As such, Csicsatka clearly does not teach this element.

Independent claim 52 describes a client device lacking a display, in addition to some of the distinguishable elements described above with respect to claim 49. All of the cited

prior art devices (even the ones designed to aid the visually impaired) have displays. As such, none of the prior art devices teach or suggest this element of claim 52.

Independent claim 52 also describes providing a navigable hierarchical menu, wherein the hierarchical menu includes a hierarchical level including only navigation items, the navigation items corresponding to drill-down or drill-up commands to different levels of the hierarchical menu. The prior art commands relate to commands other than drill-down or drill-up commands, and thus fail to teach or suggest this element.

Additionally, independent claim 52 describes a step of, while the media file is playing, outputting an audible output corresponding to the first of the navigation items. For example, the audible output may be played using a left channel while the media file is played using a right channel. The prior art fails to teach or suggest outputting an audible output corresponding to a navigation item while a media file is playing.

Independent claim 61 describes, in addition to some of the distinguishable elements described above with respect to claim 49, presenting a navigable menu on a graphical user interface that includes navigation menu icons presented on a visual display, the navigation menu icons each audibly represented by a voiced names to allow a user to navigate the menu when unable to view the visual display. The user's inability to navigate the menu may be due to the fact that, for example, the user is visually impaired to the point that he cannot view the visual display, or the user is driving, so he must keep his eyes elsewhere. All of the cited prior art devices (even the ones designed to aid the visually impaired) have displays. Indeed, even the prior art devices designed to aid the visually impaired assume that the user is able to at least partially view the display, even if such viewing is inadequate to navigate normally. This is in contrast to the inability to view the display described in claim 61. As such, none of the prior art devices teach or suggest this element of claim 61.

Independent claim 65, like independent claim 49, describes playing an audible output that is based upon customization settings provided by the user. Here, however, the customization settings include a language preference. Therefore, for example, a user navigating to a particular navigation icon indicating "playlists" may hear the word "playlists" in English if he had selected English as the preferred language, but may hear the word "playlists" in Spanish if he had selected Spanish as the preferred language. As with independent claim 49, the prior art has only a single audio tag associated with a selected icon, and not multiple potential audio tags associated with a single icon, let alone based upon a customization setting as to a preferred language.

As to independent claim 67, this describes the setting up of the audible outputs on the host device-side. Specifically, this claim describes providing a text string that represents a vocalization used to audibly describe a menu navigation component, wherein the text string is independent of text of the menu navigation component itself, generating an audio file from the text string, wherein the audio file includes an indication of a period of time; and delivering the audio file to the client device, wherein the vocalization is provided only after the menu navigation component has been navigated to but not selected for an amount of time more than the period of time indicated in the audio file. The prior art fails to teach or suggest including a period of time inside the generated audio file, allowing the client device to then utilize this period of time as an indication of how long to require a user navigate to a particular navigation component before playing the audio file. While the Forest reference does describe selecting a particular item after a predetermined period has expired, that predetermined period appears to be a global setting that is the same for all items, and is not stored in the audio file itself. As such, the prior art fails to teach or suggest this element of claim 67.

Applicant believes that all pending claims are allowable and respectfully requests a Notice of Allowance for this application from the Examiner. Should the Examiner believe that a telephone conference would expedite the prosecution of this application, the undersigned can be reached at the telephone number set out below.

Respectfully submitted,  
BEYER LAW GROUP LLP

/Marc S. Hanish/  
Marc S. Hanish  
Registration No. 42,626

P.O. Box 1687  
Cupertino, CA 95015-1687  
408-255-8001